

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT CHARLESTON**

KENNETH B. NELSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:24-cv-00222

JOHN DOE – ESURANCE PROPERTY  
AND CASUALTY, et al.,

Defendants.

**ORDER**

Pending are (1) Plaintiff's Complaint [ECF 1], filed April 29, 2024, and (2) Plaintiff's Response to Order to Show Cause [ECF 31], filed March 26, 2025. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). [ECF 3]. Magistrate Judge Tinsley filed a PF&R [ECF 32] on March 27, 2025. Magistrate Judge Tinsley recommended the Court dismiss Plaintiff's claims against Defendants Tina N. Cavender, Gary B. Nelson, Sr., and Wanda Wilson, without prejudice, pursuant to Rule 4(m) of the *Federal Rules of Civil Procedure*.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*

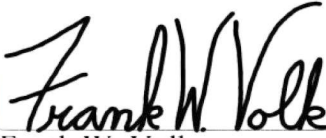
*Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on April 14, 2025. No objections were filed.

Accordingly, Plaintiff’s claims against Defendants Tina N. Cavender, Gary B. Nelson, Sr., and Wanda Wilson are **DISMISSED** without prejudice, pursuant to Rule 4(m). Plaintiff’s remaining claims against Defendants Esurance Property and Casualty and Lewis and Keller Law Firm are unaffected.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: May 6, 2025



  
Frank W. Volk  
Chief United States District Judge